

Assembly Bill No. 2223

CHAPTER 351

An act to amend Sections 56375.3, 56375.4, and 56425 of the Government Code, relating to local government.

[Approved by Governor September 20, 2006. Filed with
Secretary of State September 20, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2223, Salinas. Local government annexation.

Existing law requires a local agency formation commission to approve, after notice and hearing, an annexation to a city of unincorporated island territory if the annexation is initiated on or after January 1, 2000, and before January 1, 2007, and other conditions are met.

This bill would delete the January 1, 2007, limitation and extend this date to January 1, 2014, and would make other conforming changes.

By extending the time that this duty is imposed on local governments, this bill would impose a state-mandated local program.

Existing law requires a commission to develop and determine the sphere of influence of each local governmental agency within the county. Existing law requires, until January 1, 2007, that at least 30 days prior to submitting an application to the commission for a determination of a new sphere of influence or to update an existing sphere of influence for a city, representatives from the city meet with county representatives to discuss the proposed sphere and its boundaries, and to explore methods to reach agreement on the boundaries, development standards, and zoning requirements within the sphere, as specified. If an agreement is reached it is required to be submitted to the commission, which shall give it great weight in the final determination of the city's sphere of influence. If no agreement is reached, the commission shall consider the applicant city's sphere of influence consistent with specified policies of the commission.

This bill would extend the operation of those requirements until January 1, 2008.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 56375.3 of the Government Code is amended to read:

56375.3. (a) In addition to those powers enumerated in Section 56375, a commission shall do either of the following:

(1) Approve, after notice and hearing, the annexation to a city, and waive protest proceedings pursuant to Part 4 (commencing with Section 57000) entirely, if all of the following are true:

(A) The annexation is initiated on or after January 1, 2000, and before January 1, 2014.

(B) The annexation is proposed by resolution adopted by the affected city.

(C) The commission finds that the territory contained in the annexation proposal meets all of the requirements set forth in subdivision (b).

(2) Approve, after notice and hearing, the annexation to a city, subject to subdivision (a) of Section 57080, if all of the following are true:

(A) The annexation is initiated on or after January 1, 2014.

(B) The annexation is proposed by resolution adopted by the affected city.

(C) The commission finds that the territory contained in the annexation proposal meets all of the requirements set forth in subdivision (b).

(b) Subdivision (a) applies to territory that meets all of the following requirements:

(1) It does not exceed 150 acres in area, and that area constitutes the entire island.

(2) The territory constitutes an entire unincorporated island located within the limits of a city, or constitutes a reorganization containing a number of individual unincorporated islands.

(3) It is surrounded in either of the following ways:

(A) Surrounded, or substantially surrounded, by the city to which annexation is proposed or by the city and a county boundary or the Pacific Ocean.

(B) Surrounded by the city to which annexation is proposed and adjacent cities.

(C) This subdivision shall not be construed to apply to any unincorporated island within a city that is a gated community where services are currently provided by a community services district.

(D) Notwithstanding any other provision of law, at the option of either the city or the county, a separate property tax transfer agreement may be agreed to between a city and a county pursuant to Section 99 of the Revenue and Taxation Code regarding an annexation subject to this subdivision without affecting any existing master tax sharing agreement between the city and county.

(4) It is substantially developed or developing. The finding required by this subparagraph shall be based upon one or more factors, including, but not limited to, any of the following factors:

- (A) The availability of public utility services.
- (B) The presence of public improvements.
- (C) The presence of physical improvements upon the parcel or parcels within the area.

(5) It is not prime agricultural land, as defined by Section 56064.

(6) It will benefit from the annexation or is receiving benefits from the annexing city.

(c) Notwithstanding any other provision of this subdivision, this subdivision shall not apply to all or any part of that portion of the development project area referenced in subdivision (e) of Section 33492.41 of the Health and Safety Code that as of January 1, 2000, meets all of the following requirements:

- (1) Is unincorporated territory.
- (2) Contains at least 100 acres.
- (3) Is surrounded or substantially surrounded by incorporated territory.
- (4) Contains at least 100 acres zoned for commercial or industrial uses or is designated on the applicable county general plan for commercial or industrial uses.

SEC. 2. Section 56375.4 of the Government Code is amended to read:

56375.4. (a) The authority to initiate, conduct, and complete any proceeding pursuant to subdivision (a) of Section 56375.3 does not apply to any territory that, after January 1, 2000, became surrounded or substantially surrounded by the city to which annexation is proposed. The authority to initiate, conduct, and complete any proceeding pursuant to paragraph (1) of subdivision (a) of Section 56375.3 shall expire January 1, 2014. The period of time between January 1, 2000, and January 1, 2014, shall not include any period of time during which, in an action pending in any court, a local agency is enjoined from conducting proceedings pursuant to paragraph (1) of subdivision (a) of Section 56375.3. Upon final disposition of that case, the previously enjoined local agency may initiate, conduct, and complete proceedings pursuant to paragraph (1) of subdivision (a) of Section 56375.3 for the same period of time as was remaining under that 14-year limit at the time the injunction commenced. However, if the remaining time is less than six months, that authority shall continue for six months following final disposition of the action.

(b) Between January 1, 2000, and January 1, 2014, no new proposal involving the same or substantially the same territory as a proposal initiated pursuant to paragraph (1) of subdivision (a) of Section 56375.3 after January 1, 2000, shall be initiated for two years after the date of adoption by the commission of a resolution terminating proceedings.

SEC. 3. Section 56425 of the Government Code is amended to read:

56425. (a) In order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the county and its communities, the commission shall develop and determine the sphere of influence of each local governmental agency within the county and enact policies

designed to promote the logical and orderly development of areas within the sphere.

(b) At least 30 days prior to submitting an application to the commission for a determination of a new sphere of influence, or to update an existing sphere of influence for a city, representatives from the city shall meet with county representatives to discuss the proposed sphere, and its boundaries, and explore methods to reach agreement on the boundaries, development standards, and zoning requirements within the sphere to ensure that development within the sphere occurs in a manner that reflects the concerns of the affected city and is accomplished in a manner that promotes the logical and orderly development of areas within the sphere. If no agreement is reached between the city and county within 30 days, then the parties may, by mutual agreement, extend discussions for an additional period of 30 days. If an agreement is reached between the city and county regarding the boundaries, development standards, and zoning requirements within the proposed sphere, the agreement shall be forwarded to the commission, and the commission shall consider and adopt a sphere of influence for the city consistent with the policies adopted by the commission pursuant to this section, and the commission shall give great weight to the agreement in the commission's final determination of the city sphere.

(c) If the commission's final determination is consistent with the agreement reached between the city and county pursuant to subdivision (b), the agreement shall be adopted by both the city and county after a noticed public hearing. Once the agreement has been adopted by the affected local agencies and their respective general plans reflect that agreement, then any development approved by the county within the sphere shall be consistent with the terms of that agreement.

(d) If no agreement is reached pursuant to subdivision (b), the application may be submitted to the commission and the commission shall consider a sphere of influence for the city consistent with the policies adopted by the commission pursuant to this section.

(e) In determining the sphere of influence of each local agency, the commission shall consider and prepare a written statement of its determinations with respect to each of the following:

(1) The present and planned land uses in the area, including agricultural and open-space lands.

(2) The present and probable need for public facilities and services in the area.

(3) The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.

(4) The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

(f) Upon determination of a sphere of influence, the commission shall adopt that sphere.

(g) On or before January 1, 2008, and every five years thereafter, the commission shall, as necessary, review and update each sphere of influence.

(h) The commission may recommend governmental reorganizations to particular agencies in the county, using the spheres of influence as the basis for those recommendations. Those recommendations shall be made available, upon request, to other agencies or to the public. The commission shall make all reasonable efforts to ensure wide public dissemination of the recommendations.

(i) When adopting, amending, or updating a sphere of influence for a special district, the commission shall do all of the following:

(1) Require existing districts to file written statements with the commission specifying the functions or classes of services provided by those districts.

(2) Establish the nature, location, and extent of any functions or classes of services provided by existing districts.

(j) Subdivisions (b), (c), and (d) shall become inoperative as of January 1, 2008, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends that date.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.